

FORENSIC AUDITS IN MEXICO

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SAI OF MEXICO'S LEGAL FRAMEWORK

The SAI of Mexico, technical body of the National Congress, has technical and managerial autonomy in the exercise of its attributions, as well as to decide on its internal organization, operation and resolutions, in the terms established by the regulations that governs it.

SAI OF MEXICO'S LEGAL FRAMEWORK

It supervises federal resources that are:

- a) Destined and exercised by any entity, individual or moral, public or private.
- b) Transferred to trust funds, funds and mandates, public or private, or to any other legal entity.

All of the above is in accordance with the procedures established in the law and without causing any damage to the competence of other authorities or to the rights of the financial system users.

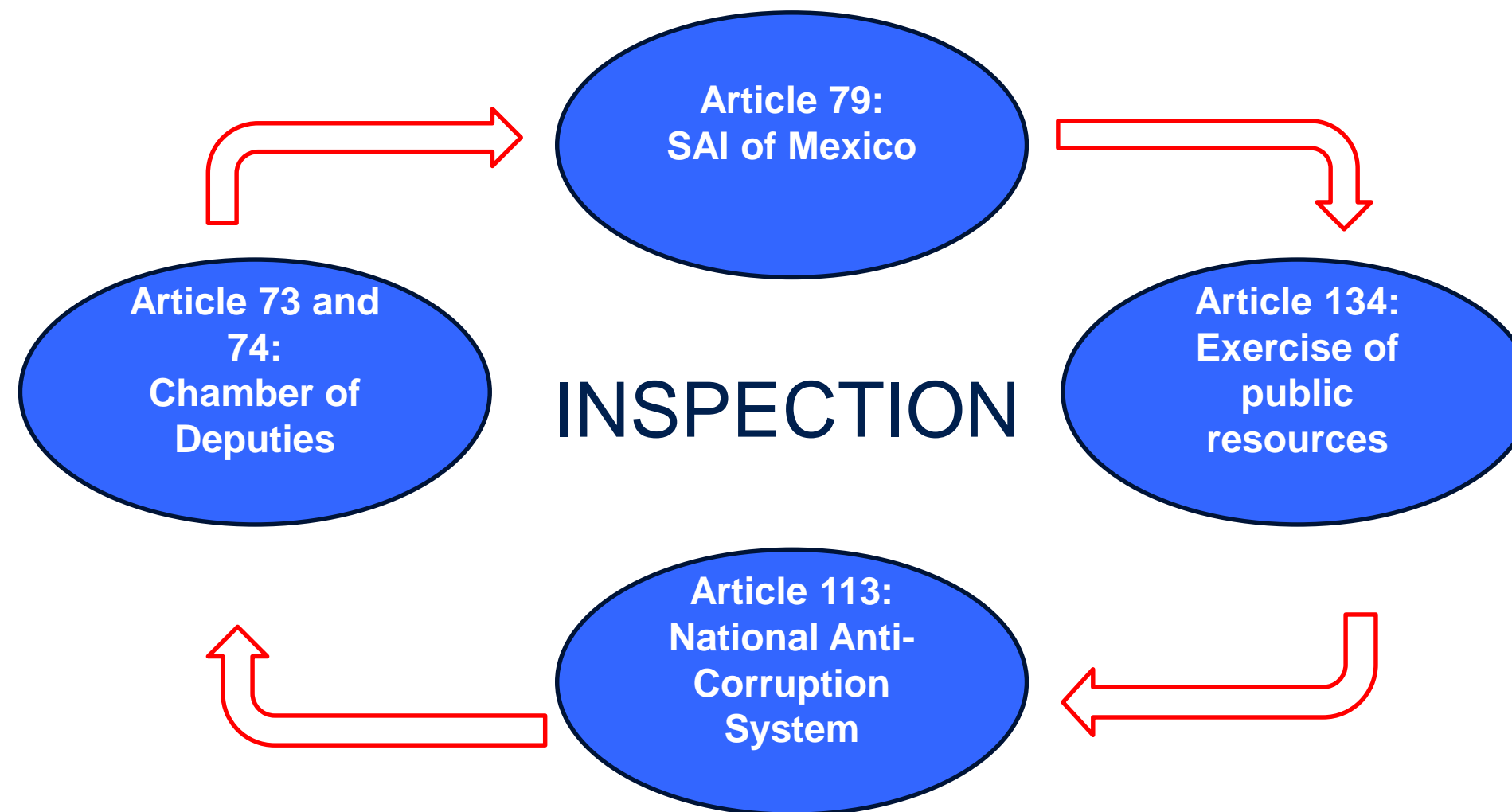


INSTITUTIONAL OBJECTIVE

The main objective of the SAI of Mexico is to provide public results through the audit of the Public Account, so these results can help to create a better environment for good governance of public entities, an improvement of government management and useful tools to fight corruption and impunity.



POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES



ARTICLE 1, SECOND PARAGRAPH OF THE LAW ON FISCALIZATION AND ACCOUNTABILITY OF THE FEDERATION

Article 1, second paragraph of the Law on Fiscalization and Accountability of the Federation:

Fiscalices

The operations of the
Federal Public
Resources

- ❖ Hiring
- ❖ Subsidies
- ❖ Transfers
- ❖ Donations
- ❖ Trusts
- ❖ Funds
- ❖ Money
- ❖ Mandates
- ❖ Private public associations
- ❖ Any other legal figure



ARTICLE 4 OF THE FEDERATION'S AUDIT AND SURVEY OF ACCOUNTS ACT

SUPERVISED ENTITIES



Entidades
Fiscalizadas

- Public entities.
- Entities of public interest other than political parties.
- Mandates, agents, trustees, fiduciaries, grantors or any other similar legal entity.
- Any entity, individual or moral, public or private, that has captured, collected, managed, exercised, collected or received public resources.

ARTICLE 17 OF THE FEDERATION'S AUDIT AND ACCOUNTABILITY ACT

ATTRIBUTIONS OF THE SAI OF MEXICO



1. Supervise the federal public resources that the Federation has granted.
2. Investigate, within the scope of its competence, acts or omissions that imply any irregularity or alleged unlawful conduct, or commission of administrative offenses.
3. Carry out home visits, to demand the display of books, papers, contracts, agreements, appointments and magnetic or electronic storage devices.
4. Conduct interviews and meetings with individuals or with public servants.
5. Require third parties that have contracted with the audited entities and any entity, individual or moral, public or private, that have been subcontracted by the third parties in order to perform the agreement.

LAW OF AUDITING AND ACCOUNTABILITY OF THE FEDERATION

DEADLINES FOR CARRYING OUT THE AUDIT



- From the first business day of the following fiscal year of each year, as long as the annual audit program has been published.
- February 20th of each year is the deadline to submit the report to the Chamber of Deputies.
- The audited entities will have 30 days to send information of the observations generated once notified.
- The SAI of Mexico will have 120 days to issue the response of the analysis of the documentation presented for its settlement by the audited entities.

FORENSIC AUDIT

CONCEPT:

A review that is constructed by applying different techniques and procedures of audit as well as a set of effective techniques for the prevention and identification of irregular acts of fraud and corruption (accounting, criminology, forensic computing, investigation, criminal law).

Verbs Rectors: "cheating", "advantage of error"

Various Verbs Rectors → criminal figure



FORENSIC AUDIT

FRAUD: Economic deception with the intention of getting a benefit, and with which someone is harmed.

CORRUPTION: The act to corrupt something or someone.



GENERAL DIRECTORATE OF FORENSIC AUDIT

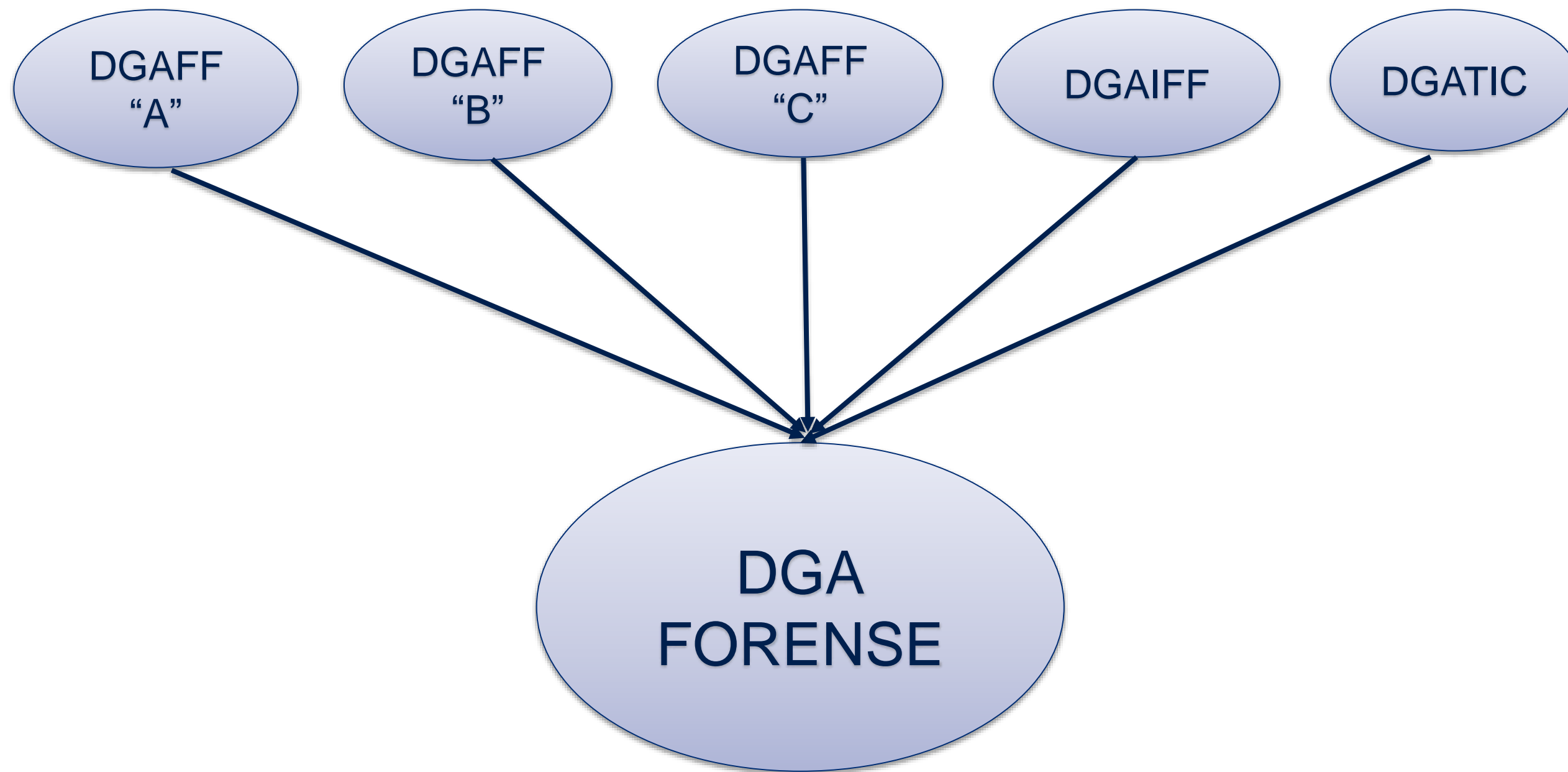
- Own techniques of forensic audit.
- Government audit techniques.
- Cross analysis.
- Review of the processes, facts and evidences.
- Detection of irregularity or unlawful conduct.
- Valid and sufficient tests.
- Validate findings.
- Relying on technology and forensic tools.

ATTRIBUTIONS

I Bis. Receive from the auditing administrative units proposals for review or intervention for possible irregularities or illegal behavior of public servants or third parties in the collection, harvest, administration, custody, management, exercise and application of federal resources;

I Ter. With the auditing administrative units, evaluate jointly the proposals presented in order to consider the feasibility and origin of the practice of forensic audit techniques.

TRANSVERSALITY



METHODS OF FRAUD DETECTION

- Fraud
- Complaint
- Internal audit
- Management Review
- Accidentally
- Accounting reconciliation
- Examination of Documents
- External audit
- Legal Notice
- Surveillance / Monitoring
- Controls in Information Technology
- Confession

SUPPORT DISCIPLINES (FORENSIC TECHNIQUES)

- **Fingerprinting:** fingerprints
- **Graphology:** writings, signatures or manuscripts
- **Documents study**
- **Forensic psychology**
- **Forensic photography**
- **Computer or forensic computer**
- **Forensic interview**
- **Forensic examination**

FINDINGS

- ✓ The subcontracting of companies/firms.
- ✓ No materialization of the service or deliverables.
- ✓ Lower costs of contracts by suppliers.
- ✓ No location of fiscal addresses.
- ✓ Legal representatives in common.

FINDINGS

- ✓ Null or falsehood in compliance with tax obligations.
- ✓ Documentation allegedly altered.
- ✓ Beneficiaries of programs without completing projects and / or without realizing them.
- ✓ Linkage between beneficiaries and suppliers.

FINDINGS

- ✓ Projects paid 100% without them having been executed.
- ✓ Simulation of services.
- ✓ Payments to public servants linked to the services reviewed (conflict of interest).
- ✓ Application of resources for purposes other than those authorized (diversion of resources).



FINDINGS

- ✓ Apocryphal fiscal vouchers.
- ✓ Financial information altered and / or modified.
- ✓ Signatures altered in documents.
- ✓ Misuse of functions.
- ✓ Deficiencies in procurement procedures for goods and services.
- ✓ Inopportune, deficient or nonexistent technological systems.
- ✓ Payment authorizations without documental support.

ARTICLE 1 OF THE LAW ON ACQUISITIONS, LEASES AND SERVICES OF THE PUBLIC SECTOR

CONTRACTS celebrated among dependencies and entities/bodies, or between entities/bodies, and the **LEGAL ACTS** that are held between agencies, or those that are carried out between any dependency or entity of the Federal Public Administration with any belonging to the Public Administration of a Federative entity will not be within the scope of this Law.

However

These activities will be subject to this order, when the agency or entity obligated to deliver the goods or provide the service, does NOT have the capacity to do it by itself and contracts a **THIRD PARTY** for its realization.

AUDITS CARRIED OUT C.P. 2017

| ENTIDAD FISCALIZADA | Universo | Muestra | % |
|--|----------------|--------------|--------|
| | miles de pesos | | |
| Universidad Tecnológica de Campeche | 85,321.3 | 85,321.3 | 100.0% |
| Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación | 93,008.4 | 93,008.4 | 100.0% |
| Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación | 266,634.0 | 239,000.0 | 89.6% |
| Universidad Politécnica de Tlaxcala | 156,735.0 | 156,735.0 | 100.0% |
| Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación | 336,970.0 | 281,508.8 | 83.5% |
| Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación | 924,960.5 | 924,960.5 | 100.0% |
| Universidad Autónoma Intercultural de Sinaloa | 122,888.6 | 122,888.6 | 100.0% |
| Secretaría de Desarrollo Agrario, Territorial y Urbano | 2,709,862.7 | 2,359,998.3 | 87.1% |
| DICONSA SA | 537,596.9 | 412,624.4 | 76.8% |
| Secretaria de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación | 1,497,824.3 | 1,368,579.8 | 91.4% |
| Instituto Tecnológico Superior De Comacalco | 168,388.4 | 168,388.4 | 100.0% |
| Televisora de Hermosillo, S. A. de C. V. | 40,000.0 | 40,000.0 | 100.0% |
| Universidad Tecnológica de Tulancingo | 93,584.8 | 93,584.8 | 100.0% |
| Instituto Tecnológico Superior de Centla | 78,348.8 | 78,348.8 | 100.0% |
| Secretaria de Gobernación | 7,036,089.2 | 7,036,089.2 | 100.0% |
| | 14,148,212.9 | 13,461,036.3 | |

REGULATION OF THE LAW ON ACQUISITIONS, LEASES AND SERVICES OF THE PUBLIC SECTOR

Art. 4. A dependency, entity or person under public law, acting as a provider, will be deemed to have the capacity to deliver a good or provide a service by itself, when, in order to comply with the contract, it does not require another contract with third parties, or, if required, this does not exceed 49% of the total amount of the contract entered into with the public entity.

Acquisitions, leases and disposals of all types of goods, rendering of services and contracting work carried out will be submitted:

- By direct award
- Invitation to 3
- Through public tenders

By public announcement, presenting solvent proposals in a sealed envelope, which will be publicly opened

They must assure the State the best possible conditions available in:

- ❖ Price
- ❖ Quality
- ❖ Financing
- ❖ Opportunity, and
- ❖ Other relevant circumstances

Suitability of tenders

When the bids referred to are not suitable to ensure these conditions: **the law will establish the bases, procedures, rules, requirements and other elements to ensure the best conditions for the State**

PRINCIPLES OF SUITABILITY

a) Necessity



Lack of a good or services.

b) Proportionality



What is delivered or provided has a proportion or rational correspondence according to what is received.

ARTICLE 11 OF THE GENERAL LAW OF ADMINISTRATIVE RESPONSIBILITIES

TYPES OF FAULTS:

1. Serious
Administrative
Faults



Investigate and
substantiate
Procedures



Specialized Court

2. Administrative
Faults NOT SERIOUS



WILL INFORM



Internal Control Organs will
give continuity to the
INVESTIGATION and will
promote the pertinent actions

CHAPTER II OF THE GENERAL LAW OF ADMINISTRATIVE RESPONSIBILITIES

Serious Administrative Faults Committed by Public Servants

Article 63



Public Servant commits
CONTEMPT

- ❖ Provides false information.
- ❖ Does not provide information at all.
- ❖ Deliberate and unjustified delay of information.



As long as it
was **requested**
by:

- ❖ Requirements.
- ❖ Resolutions of the Fiscal/Supervisory Authorities.

CHAPTER II OF THE GENERAL LAW OF ADMINISTRATIVE RESPONSIBILITIES

Actions of Individuals linked to Serious Administrative Offenses

The General Law of Administrative Responsibilities, contemplates behaviors committed by individuals considered as **SERIOUS FAULTS**:

- ☐ Present false information or documentation, as well as the Obstruction of Research
- ☐ Whoever obtains benefit or undue advantage in public contracting
- ☐ Misuse of public resources



Actions

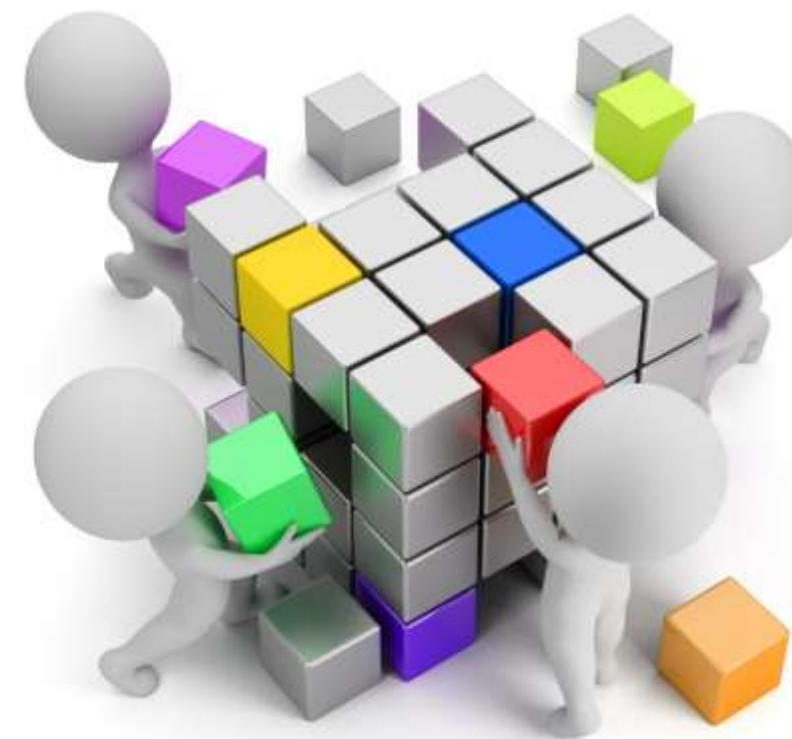
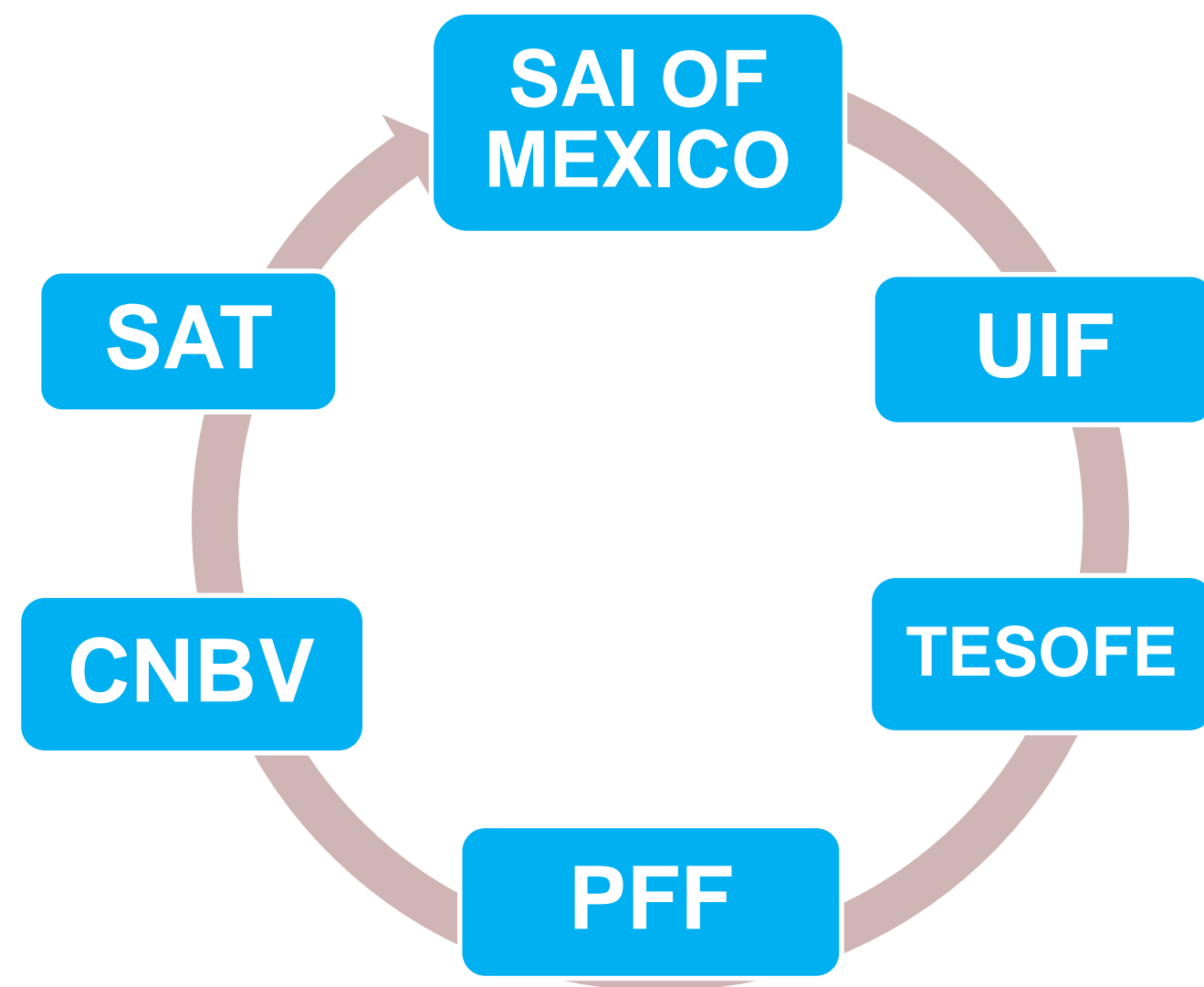


IMPACT OF THE FORENSIC AUDIT IN THE OBSERVATIONS DETERMINED IN THE PUBLIC ACCOUNT

| Type of Action | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|--|------|------|------|------|------|------|------|------|
| Recommendations | 14 | 65 | 68 | 54 | 24 | 19 | 25 | 32 |
| Promotions of the Exercise of the Faculty of Fiscal Verification | 7 | 7 | 9 | 15 | 11 | 14 | 26 | 18 |
| Clarification Request | 6 | 27 | | 1 | 2 | 2 | | |
| Procedures of Administrative Sanctioning Responsibilities | 15 | 135 | 76 | 73 | 37 | 35 | 28 | 36 |
| Observations subjects | 66 | 97 | 45 | 69 | 84 | 114 | 79 | 65 |
| Denounces Fact | 68 | 46 | 10 | 6 | 10 | 16 | 5 | |
| Assignment of Restitution Responsibilities | 52 | 61 | 29 | 30 | 5 | 3 | | |
| Total | 228 | 438 | 237 | 248 | 173 | 203 | 159 | 151 |



COLLABORATION ENTITIES



“Corruption and hypocrisy ought not to be inevitable products of democracy, as they undoubtedly are today”.

Mahatma Gandhi.